

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 6416 of 2006(L)

PETITIONER:

**PADMAJA.K., ARUNVILASOM,
CHERUPPANI, VINOBA NIKETHAN (PO),
THALIKODE, NEDUMANGAD TALUK, THIRUVANANTHAPURAM
DISTRICT.(BALA SEVIKA, HARIJAN SEVAKSANGH,
KERALA BRANCH, KATTAKKADA)**

BY ADV. SRI.SURIN GEORGE IPE

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY THE
PRINCIPAL SECRETARY, SCHEDULED CASTE/SCHEDULED
TRIBE DEPARTMENTS, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. DIRECTOR, SCHEDULED TRIBES DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**
- 3. TRIBAL PROJECT OFFICER,
NEDUMANGAD, THIRUVANANTHAPURAM DISTRICT.**
- 4. UNION OF INDIA REPRESENTED BY THE
SECRETARY, MINISTRY OF TRIBAL DEVELOPMENT
DEPARTMENT, GOVERNMENT OF INDIA, NEW DELHI.**
- 5. HARIJAN SEVEK SANGH KERALA BRANCH
REPRESENTED BY ITS PRESIDENT, SIVANANDA,
MANDIRAM, KATTAKADA P.O., THIRUVANANTHAPURAM.**

**BY ADV. SRI.BOBY JOHN, CGC - R4
SRI.K.SASIKUMAR - R5
GOVERNMENT PLEADER SRI.P.NANDAKUMAR - R2
SRI.P.PARAMESWARAN NAIR, A.S.G.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ATTENDENCE REGISTER FOR THE MONTHS OF SEPTEMBER AND OCTOBER 1989.

EXT.P2:- COPY OF THE REPRESENTATION DT. 6.5.05 FORWARDED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P3:- COPY OF THE REPRESENTATION DT. .6.5.05 FORWARDED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

RESPONDENTS EXHIBITS

EXT.R2(a):- GOVT. OF INDIA LETTER NO.F-22040/66/03-NGO (PART.II DT. 22.11.05.

EXT.R2(b):- LETTER NO.A6-18837/03/K.DIS DT. 1.8.03 OF THE DISTRICT COLLECTOR , THIRUVANANTHAPURAM.

EXT.R5(a):- COPY OF THE REPRESENTATION DT. 17.9.02 SUBMITTED BY THE 5TH RESPONDENT BEFORE THE HONOURABLE MINISTER FOR SCHEDULED CASTE/SCHUDULE TRIBE DEVELOPMENT.

EXT.R5(b):- COPY OF THE REPRESENTATION DT. 14.11.02 SUBMITTED BY the 5TH RESPONDENT TO THE SC/ST WELFARE COMMITTEE OF THE KERALA LEGISLATIVE ASSEMBLY.

EXT.R5(c):- COPY OF THE MINUTES DT. 19.1.04 OF THE SC/ST WELFARE COMMITTEE OF THE KERALA STATE LEGISLATURE.

EXT.R5(d):- COPY OF THE LETTER DT. 31.5.04, FROM THE COMMISSION FORWARDING THE REPORT TO THE GOVERNMENT.

EXT.R5(e):- COPY OF THE INTERIM REPORT SUBMITTED BY THE COMMISSION.

EXT.R5(f):- COPY OF THE LETTER DT. 14.7.04 FROM THE COMMISSION FORWARDING THE FINAL REPORT.

EXT.R5(g):- COPY OF THE FINAL REPORT.

EXT.R5(h):- COPY OF THE LETTER FORWARDED BY THE CHAIRMAN OF THE LEGISLATIVE COMMITTEE FOR SC/ST DEVELOPMENT.

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EXT.PR5(i):- COPY OF THE LETTER DT. 25.1.05 FORWARDED BY THE 1ST RESPONDENT TO THE DIRECTOR OF THE 4TH RESPONDENT.

EXT.R5(j):- COPY OF THE REPRESENTATION DT. 20.4.05 SUBMITTED BY THIS RESPONDENT TO THE HONOURABLE MINISTER.

EXT.R5(k):- COPY OF THE REPRESENTATION DT. 1.6.05 SUBMITTED BY THIS RESPONDENT BEFORE THE HONOURABLE MINISTER.

EXT.R5(l):- COPY OF THE ORDER DT. 15.6.05 ISSUED BY THE 12ND RESPONDENT.

EXT.R5(m):- COPY OF THE LETTER DT. 13.10.05 FORWARDED BY THE THEN HONOURABLE OPPOSITION LEADER OF KERALA SHRI.V.S.ACHUTHANANDAN WHO IS PRESENTLY THE HONOURABLE CHIEF MINISTER OF KERALA.

EXT.R5(n):- COPY OF THE LETTER DT. 12.7.05 FORWARDED BY THE 1ST RESPONDENT TO THE DIRECTOR OF THE 4TH RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

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ANTONY DOMINIC,J.

W.P (C) No. 6416 of 2006

Dated this the 13th day of August, 2007

J U D G M E N T

Petitioner was a Balasevika in a creche centre run by the 5th respondent. Fifth respondent is an N. G. O. functioning on the Grant-in-aid extended by the 4th respondent, Government of India. Such grant was extended by the Government of India based on the report of the Project Officer and as recommended by the District Collector and finally on the recommendation of the State Government. However, when it came to 2001-02, as usual an application was made by the 5th respondent and the Project Officer, for reasons on his own, recommended against the grant in aid.

2. At that stage, the 5th respondent approached the Government of Kerala and also submitted Exhibit R5 (b) representation to the Legislative Committee for SC/ST which considered the claim of the 5th respondent in its meeting held on 19th January 2004 and Exhibit R5 (c) is the Minutes of the said meeting. In the meeting it was resolved to direct the SC/ST Development Department to examine the inadequacies of the institutions functioning under the 5th respondent in the State and

submit a report to the Legislative Committee, It was further resolved that on receipt of such report, if necessary, further inspection would be conducted by the Committee. Accordingly, the Enquiry Officer was appointed by the concerned department of the 1st respondent and Exhibit R5 (d) is the preliminary report. Thereafter, final report was given as per Exhibit R5 (f) with the recommendations of the enquiry officer. The Legislative Committee thereafter resolved by Ext. R5 (h) to take up the case of the 5th respondent with the 4th respondent for continued extension of the Grant-in-aid for running their institutions. It is stated that in pursuance to Exhibit R5 (h) resolution of the Legislative Committee, the 1st respondent, Government of Kerala took up the matter with the 4th respondent. There was no progress in the matter and as a result thereof, the 5th respondent represented to the 1st respondent by submitting Exhibits R5 (j) and (k) representations. It is also seen that then the Leader of Opposition of the State also had pursued the matter by submitting Exhibit R5 (m). Even thereafter, there was no progress and the 1st respondent again took up the matter with the 4th respondent for extending the benefit of Grant-in-aid for

the year 2001-02, by Exhibit R5 (n) recommendation.

3. It is in the above context that on account of financial crisis of the 5th respondent that the petitioner has not been paid her salary for the year from 2001 onwards and she filed this writ petition praying mainly for directing the 5th respondent immediately to disburse the Grant-in-aid to the 5th respondent and to ensure that the arrears of salary and other benefits are paid to her.

4. A counter affidavit has been filed by the 2nd respondent in which, they have produced a communication from the 4th respondent as Exhibit R2 (a) dated 22.11.2005 which says that the Central Government had decided to discontinue the projects with effect from 2004-05 based on the recommendation of the Project Screening Committee. It is ordered that such cases shall not be recommended by the State Government for extension of Grant-in-aid. Along with the list attached to Exhibit R2 (a) the name of the 1st respondent figures at Sl. No.1. According to the State Government, although they have recommended the case of the 5th respondent for Grant-in-aid for year 2001-02, the 4th respondent has not decided in their

favour and in the absence of which, the benefit of Grant-in aid is not being disbursed to the 5th respondent. Standing Counsel for the 4th respondent also submits that the final decision in the matter is yet to be taken by the 4th respondent.

5. Going by the counter affidavit filed by the 2nd respondent, in view of Exhibit R2 (a) the petitioner cannot have any claim for Grant-in-aid as the Central Government have resolved to discontinue the scheme based on the recommendation of the Project Screening Committee. However, this stand of the 1st respondent overlooks the fact that discontinuance mentioned in Exhibit R2 (a) is only from 2004-05 onwards and that the claim of the petitioner raised in this writ petition is in relation to 2001-02 only. Therefore, the discontinuance mentioned in Exhibit R2 (a) cannot be an impediment for the 4th respondent to consider the 5th respondent's request as recommended by the State Government. Therefore, the 4th respondent shall consider the request of the 5th respondent in the light of the recommendation evidenced by Exhibits R5 (i) and (n) dated 25.1.2005 and 12.7.2005 respectively, as expeditiously as possible, at any rate, within a

period of four months from the date of receipt of a copy of this judgment. It is directed that the 5th respondent shall communicate copy of this judgment to the 4th respondent, for compliance.

The writ petition is disposed of as above.

(ANTONY DOMINIC,JUDGE)

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/True copy/

P.A to Judge

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007